President-Elect Trump Announces Intent To Impose Tariffs on Goods Imported From Canada, Mexico and China

Skadden

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If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed on the last page or call your regular Skadden contact.

One Manhattan West
New York, NY 10001
212.735.3000

1440 New York Ave., NW
Washington, DC 20005
202.371.7000

On November 25, 2024, President-elect Donald Trump announced that, on his first day in office, he would impose new tariffs on all imports from Canada, Mexico and China.

Specifically, in posts on the social media platform Truth Social, President-elect Trump said he would levy:

- 25% tariffs on all imports from Canada and Mexico.
- An additional 10% tariff on all merchandise from China.

Together, imports from Canada, Mexico and China represent over one-third of all imports into the United States.

Some observers, such as Sen. Chuck Grassley, R- Iowa, have downplayed these statements and called the threatened tariffs a "negotiating tool." However, importers should prepare for the possibility that these tariffs will be imposed. They should assess their exposure to these potential tariffs and develop strategies to mitigate risk.

25% Tariffs on Goods Imported From Mexico and Canada

While details about the proposed tariffs have not yet been provided, President-elect Trump stated that he will "sign all necessary documents" on his first day in office to impose a 25% tariff on all imports from Canada and Mexico. In his announcement, President-elect Trump proposed the new tariffs as a means of inducing Canada and Mexico to reduce illegal immigration and drug trafficking across the northern and southern U.S. borders, respectively.

On the campaign trail, Trump proposed imposing a 25% tariff on imports from Mexico based on illegal immigration; drug trafficking is a new basis for this policy.

President-elect Trump may seek to impose the new tariffs under the International Emergency Economic Powers Act (IEEPA), which grants the president the power to regulate imports and impose duties in response to an emergency involving "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States."

No president has yet imposed tariffs using IEEPA. But in August 1971, President Richard Nixon imposed 10% tariffs on imports under the Trading With the Enemy Act (TWEA) to address balance of payments deficits. (TWEA is a predecessor statute to IEEPA.)

To invoke IEEPA, President-elect Trump would need to declare a national emergency under the National Emergencies Act (NEA). In this case, he presumably would declare a national emergency with respect to drug trafficking, particularly involving fentanyl, and with respect to illegal immigration.

It is possible that President-elect Trump intends to use the proposed tariffs, or the threat of such tariffs, to create negotiating leverage — for instance, in the lead-up to the trilateral review of the United States-Mexico-Canada Agreement (USMCA), which is set to take place in 2026. But if President-elect Trump imposes a 25% tariff on all imports from Canada and Mexico, these countries may assert claims under the dispute settlement mechanism of the USMCA. Canada and Mexico also may impose retaliatory tariffs.

Indeed, Mexican President Claudia Sheinbaum has already sent President-elect Trump a letter indicating that Mexico would in fact impose retaliatory tariffs on U.S. exports to Mexico. In 2018, Mexico responded to U.S. steel and aluminum tariffs by imposing duties on U.S. steel, pork, fresh cheese, apples and bourbon.

If the United States imposed 25% duties on all Mexican imports, Mexico could retaliate against the same products it did before, while also targeting the agricultural and automobile manufacturing sectors.

10% Tariffs on Chinese Goods

President-elect Trump also proposed a 10% tariff on all merchandise from China. Like the 25% tariff on Canadian and Mexican imports, the 10% tariff on Chinese imports likely would be grounded in IEEPA, given that President-elect Trump apparently seeks to impose these tariffs on Day 1 of his presidency.

He has identified drug trafficking — particularly fentanyl trafficking — as the basis for the proposed additional 10% tariff, and the national emergency supporting this measure presumably would be grounded in the drug trafficking problem.

President-elect Trump could invoke Section 301 as a basis for imposing 10% tariffs on Chinese imports, but this likely would not permit Trump to impose tariffs on the Day 1 time frame outlined in his November 25, 2024, announcement. In contrast with IEEPA, Section 301 requires a public comment process that typically involves public hearings and an opportunity for interested parties to file written submissions. For this reason, a Section 301 investigation may take several months to resolve.

Chinese imports already face substantial tariffs imposed under Section 301. In 2018, the first Trump administration imposed Section 301 tariffs ranging from 7.5% to 25% on roughly $550 billion worth of goods imported from China.

After its four-year review of the Section 301 tariffs, the Biden administration:

- Maintained Section 301 tariffs at their existing rates on certain products.
- Increased Section 301 tariff rates on other products.
- Imposed new Section 301 tariffs on certain products that were not previously subject to such tariffs.

President-elect Trump's 10% tariff appears to be intended to apply in addition to existing Section 301 tariffs. In his announcement, he described the proposed tariff as "an additional 10% [t]ariff, above any additional [t]ariffs." This language suggests that the 10% tariff would be layered onto existing tariffs, such as Section 301 tariffs or antidumping or countervailing duties. But it may also leave open the possibility that the administration will impose other tariffs on Chinese-origin goods — for instance, as a result of a new investigation under Section 301.

It remains to be seen whether the incoming Trump administration will impose further duties on Chinese imports beyond the 10% duties announced on November 25, 2024. On the campaign trail, President-elect Trump proposed applying 60% duties to all Chinese imports. We cannot rule out the possibility that he would do so in the future, perhaps using a tool such as Section 301.

Takeaways

Companies should consider acting quickly to evaluate their exposure to these potential tariffs and develop risk mitigation strategies, such as:

- **Accelerating shipments in advance of January 20, 2025.** Companies may wish to explore the extent to which they can accelerate shipments of goods that originate from Canada, Mexico or China, so as to maximize the number of entries that occur before Inauguration Day. This may reduce the number of shipments that are subject to any Day 1 executive orders that impose tariffs on goods from these countries.
- **Evaluating alternative import sources or domestic-origin goods.** In addition, companies may consider sourcing from foreign countries that are not currently targeted for increased tariffs or consider "re-shoring" to source from U.S. producers. Companies also may evaluate the feasibility of importing inputs and components duty-free or at a lower rate of duty from countries other than Canada, Mexico and China, for subsequent manufacturing in the United States, rather than importing finished goods from these three countries that are targeted for higher tariffs.
- **Exploring the availability of customs valuation methods that can reduce duties, such as "first sale" valuation.** U.S. customs law allows importers, under certain conditions, to base the customs valuation of an imported product on the first or earlier sale (*i.e.*, to a vendor or other intermediary) in a series of transactions, rather than the last one. This method, known as the "first sale rule," can help companies reduce their tariff exposure. Companies should consult customs counsel to determine other methods of reducing tariff exposure based on their particular import profile.

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Contacts

Brooks E. Allen
Partner / Washington, D.C.
202.371.7598
brooks.allen@skadden.com

Brian J. Egan
Partner / Washington, D.C.
202.371.7270
brian.egan@skadden.com

Michael E. Leiter
Partner / Washington, D.C.
202.371.7540
michael.leiter@skadden.com

Shay Dvoretzky
Partner / Washington, D.C.
202.371.7370
shay.dvoretzky@skadden.com

Parker Rider-Longmaid
Partner / Washington, D.C.
202.371.7061
parker.rider-longmaid@skadden.com

Stephen A. Floyd
Associate / Washington, D.C.
202.371.7145
stephen.floyd@skadden.com

Christian Knipfer
Associate / Washington, D.C.
202.371.7331
christian.knipfer@skadden.com

Joe Sandman
Associate / Washington, D.C.
202.371.7355
joseph.sandman@skadden.com